

June 30, 2000

MEMORANDUM FOR ALL IRS EXECUTIVES

FROM: /s/Margaret Ann Irving
Privacy Advocate

SUBJECT: OMB Directive Regarding Privacy Policies On Federal Web Sites

The attached memorandum from the Director, Office of Management and Budget, which was signed June 22, 2000, provides additional requirements that agencies or contractors acting on behalf of agencies must satisfy with regard to the posting of privacy policies on their Internet web sites. This memorandum supplements the June 2, 1999 OMB memorandum, Privacy Policies On Federal Web Sites, which requires each agency post privacy policy notices on its principal Internet web site, other major points of entry, and on any other web page where substantial personal information is collected from the public.

The OMB memorandum directs each agency to immediately review these web sites to ensure its privacy notices accurately reflect its current information-collecting, -using, and -sharing practices. OMB advises that the use of "cookies," a software device that permits the tracking of an individual's web site visits, is limited to certain instances and requires "personal approval by the head of the agency." OMB also requires that the agency include, in its budget submissions this fall, a "description of [an agency's] privacy practices and the steps taken to ensure compliance with this memorandum."

Please make certain that those in your organization who are responsible for ensuring the accuracy of your current web pages or are developing new web pages are aware of these additional privacy requirements. The Office of the Privacy Advocate remains available to assist your operation in the drafting of their privacy notices. Please contact us at (202) 283-7750. (A copy of the June 2, 1999, OMB memorandum and its attachment which provides model language for web privacy statements is available at <http://www.whitehouse.gov/omb/memoranda/m99-18.html>.) In addition, the Office of the Chief, Electronic Information Services, is available to discuss with your organization the general information that should and should not be included on your web pages.

Our agency web site provides an effective means of providing information to and educating the public about the IRS, its programs and policies. In order to realize the full potential of our web site, however, we need to continue to ensure public confidence by informing the public, through clear and comprehensive privacy statements, about the information we collect as a result of their visits.

Attachment

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Jacob J. Lew
Director

SUBJECT: Privacy Policies and Data Collection on Federal Web Sites

The purpose of this memorandum is to remind you that each agency is required by law and policy to establish clear privacy policies for its web activities and to comply with those policies. Agency contractors should also comply with those policies when operating web sites on behalf of agencies.

As described in my memorandum of June 2, 1999, on "Privacy Policies on Federal Web Sites," agencies are to post clear privacy policies on agency principal web sites, as well as at any other known, major entry points to sites, and at any web page where substantial amounts of personal information are posted. Privacy policies must be clearly labeled and easily accessed when someone visits a web site.

Agencies must take care to ensure full adherence with stated privacy policies. For example, if an agency web site states that the information provided will not be available to any other entities, it is the responsibility of the agency to assure that no such sharing takes place. To ensure such adherence, each agency should immediately review its compliance with its stated web privacy policies.

Particular privacy concerns may be raised when uses of web technology can track the activities of users over time and across different web sites. These concerns are especially great where individuals who have come to government web sites do not have clear and conspicuous notice of any such tracking activities. "Cookies" -- small bits of software that are placed on a web user's hard drive -- are a principal example of current web technology that can be used in this way. The guidance issued on June 2, 1999, provided that agencies could only use "cookies" or other automatic means of collecting information if they gave clear notice of those activities.

Because of the unique laws and traditions about government access to citizens' personal information, the presumption should be that "cookies" will not be used at Federal web sites. Under this new Federal policy, "cookies" should not be used at Federal web sites, or by contractors when operating web sites on behalf of agencies, unless, in addition to clear and conspicuous notice, the following conditions are met: a compelling need to gather the data on the site; appropriate and publicly disclosed privacy safeguards for handling of information derived from "cookies"; and personal approval by the head of the agency. In addition, it is federal policy that all Federal web sites and contractors when operating on behalf of agencies shall comply with the standards set forth in the Children's Online Privacy Protection Act of 1998 with respect to the collection of personal information online at web sites directed to children.

A description of your privacy practices and the steps taken to ensure compliance with this memorandum should be included as part of the submission on information technology that is incorporated into the agency budget submission this fall.